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8 **BEFORE THE**  
9 **BOARD OF REGISTERED NURSING**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No.

2011-674

13 **JERRY BELDEN,**  
a.k.a. **JERRY JAMES BELDEN**  
14 **10083 Winter Creek Loop**  
**Truckee, CA 96161**

**A C C U S A T I O N**

15 **Registered Nurse License No. 571029**

16 Respondent.

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18 Complainant alleges:

19 **PARTIES**

20 1. Louise R. Bailey, M.Ed., RN ("Complainant") brings this Accusation solely in her  
21 official capacity as the Executive Officer of the Board of Registered Nursing ("Board"),  
22 Department of Consumer Affairs.

23 2. On or about August 28, 2000, the Board issued Registered Nurse License Number  
24 571029 to Jerry Belden, also known as Jerry James Belden ("Respondent"). Respondent's  
25 registered nurse license was in full force and effect at all times relevant to the charges brought  
26 herein and will expire on June 30, 2012, unless renewed.

27 **STATUTORY PROVISIONS**

28 3. Business and Professions Code ("Code") section 2750 provides, in pertinent part, that

1 the Board may discipline any licensee, including a licensee holding a temporary or an inactive  
2 license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing  
3 Practice Act.

4 4. Code section 2764 provides, in pertinent part, that the expiration of a license shall not  
5 deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or  
6 to render a decision imposing discipline on the license. Under Code section 2811, subdivision  
7 (b), the Board may renew an expired license at any time within eight years after the expiration.

8 5. Code section 2761 states, in pertinent part:

9 The board may take disciplinary action against a certified or licensed  
10 nurse or deny an application for a certificate or license for any of the following:

11 (a) Unprofessional conduct . . .

12 . . . .

13 (f) Conviction of a felony or of any offense substantially related to the  
14 qualifications, functions, and duties of a registered nurse, in which event the record of  
the conviction shall be conclusive evidence thereof . . .

15 6. Code section 2762 states, in pertinent part:

16 "In addition to other acts constituting unprofessional conduct within the  
17 meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a  
person licensed under this chapter to do any of the following:

18 (a) Obtain or possess in violation of law, or prescribe, or except as  
19 directed by a licensed physician and surgeon, dentist, or podiatrist administer to  
himself or herself, or furnish or administer to another, any controlled substance as  
20 defined in Division 10 (commencing with Section 11000) of the Health and Safety  
Code or any dangerous drug or dangerous device as defined in Section 4022.

21 (b) Use any controlled substance as defined in Division 10 (commencing  
22 with Section 11000) of the Health and Safety Code, or any dangerous drug or  
dangerous device as defined in Section 4022, or alcoholic beverages, to an extent or  
23 in a manner dangerous or injurious to himself or herself, any other person, or the  
public or to the extent that such use impairs his or her ability to conduct with safety to  
24 the public the practice authorized by his or her license . . .

25 (c) Be convicted of a criminal offense involving the prescription,  
consumption, or self administration of any of the substances described in subdivisions  
26 (a) and (b) of this section, or the possession of, or falsification of a record pertaining  
to, the substances described in subdivision (a) of this section, in which event the  
27 record of the conviction is conclusive evidence thereof.

28 . . . .

1 (e) Falsify, or make grossly incorrect, grossly inconsistent, or  
2 unintelligible entries in any hospital, patient, or other record pertaining to the  
substances described in subdivision (a) of this section."

3 7. Code section 2765 states:

4 "A plea or verdict of guilty or a conviction following a plea of nolo  
5 contendere made to a charge substantially related to the qualifications, functions and  
6 duties of a registered nurse is deemed to be a conviction within the meaning of this  
7 article. The board may order the license or certificate suspended or revoked, or may  
8 decline to issue a license or certificate, when the time for appeal has elapsed, or the  
judgment of conviction has been affirmed on appeal or when an order granting  
probation is made suspending the imposition of sentence, irrespective of a subsequent  
order under the provisions of Section 1203.4 of the Penal Code allowing such person  
to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside  
the verdict of guilty, or dismissing the accusation, information or indictment."

9 8. Code section 490, subdivision (a), states:

10 "In addition to any other action that a board is permitted to take against a  
11 licensee, a board may suspend or revoke a license on the ground that the licensee has  
12 been convicted of a crime, if the crime is substantially related to the qualifications,  
functions, or duties of the business or profession for which the license was issued."

13 9. Health and Safety Code section 11173, subdivision (a), states, in pertinent part, that  
14 "[n]o person shall obtain or attempt to obtain controlled substances, or procure or attempt to  
15 procure the administration of or prescription for controlled substances, (1) by fraud, deceit,  
16 misrepresentation, or subterfuge . . ."

### 17 COST RECOVERY

18 10. Code section 125.3 provides, in pertinent part, that the Board may request the  
19 administrative law judge to direct a licensee found to have committed a violation or violations of  
20 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
21 enforcement of the case.

### 22 CONTROLLED SUBSTANCES AT ISSUE

23 11. "Dilaudid", a brand of hydromorphone, is a Schedule II controlled substance as  
24 designated by Health and Safety Code section 11055, subdivision (b)(1)(K).

25 12. "Lorazepam" is a Schedule IV controlled substance as designated by Health and  
26 Safety Code section 11057, subdivision (d)(16).

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1 **FIRST CAUSE FOR DISCIPLINE**

2 **(Criminal Conviction)**

3 13. Respondent is subject to disciplinary action pursuant to Code sections 2761,  
4 subdivision (f), and 490, subdivision (a), in that on or about October 24, 2002, in the criminal  
5 proceeding titled *People v. Jerry James Belden* (Super. Ct. Fresno County, 2002, Case No.  
6 T02905226-7), Respondent pled guilty to violating Vehicle Code section 23152, subdivision (b)  
7 (driving a vehicle while having a blood alcohol level of 0.08 percent or more, a misdemeanor), a  
8 crime substantially related to the qualifications, functions, and duties of a registered nurse. The  
9 circumstances of the crime are as follows: On or about August 3, 2002, Respondent willfully and  
10 unlawfully drove a vehicle while having a blood alcohol level of .13/.14 percent.

11 **SECOND CAUSE FOR DISCIPLINE**

12 **(Use of Alcoholic Beverages to an Extent or in a Manner**

13 **Dangerous or Injurious to Oneself or Others)**

14 14. Respondent is subject to disciplinary action pursuant to Code section 2761,  
15 subdivision (a), on the grounds of unprofessional conduct, as defined by Code section 2762,  
16 subdivision (b), in that on or about August 3, 2002, Respondent consumed alcoholic beverages to  
17 an extent or in a manner dangerous or injurious to himself and others, as set forth in paragraph 13  
18 above.

19 **THIRD CAUSE FOR DISCIPLINE**

20 **(Conviction Related to the Consumption of Alcoholic Beverages)**

21 15. Respondent is subject to disciplinary action pursuant to Code section 2761,  
22 subdivision (a), on the grounds of unprofessional conduct, as defined by Code section 2762,  
23 subdivision (c), in that on or about October 24, 2002, Respondent was convicted of a criminal  
24 offense involving the consumption of alcoholic beverages, as set forth in paragraph 13 above.

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**TAHOE FOREST HOSPITAL**  
**FOURTH CAUSE FOR DISCIPLINE**

**(Diversion of Controlled Substances)**

16. Respondent was employed as a registered nurse in the Med-Surgical Unit at Tahoe Forest Hospital (hereinafter "hospital") located in Truckee, California.

17. At all times relevant herein, the nursing staff in the Med-Surgical Unit were permitted to access the controlled substance Lorazepam from the Pyxis machine (automated medication dispensing system) for administration to patients without a physician's order. The Med-Surgical Unit's supply of injectable Lorazepam and hydromorphone (Dilaudid) PCA<sup>1</sup> bags were kept in the same locked box in the refrigerated unit. When the nursing staff accessed the Pyxis machine to remove Lorazepam for a patient, the Pyxis would open a cube in the refrigerated unit allowing them access to the key to the locked container with the PCA Dilaudid. Even if the nursing staff did not actually remove the Lorazepam from the Pyxis, they still had access to the key and the PCA Dilaudid. The attempted removals would appear in the Pyxis system and Pyxis printouts as "canceled override", "Canceled O/R", or "cancel remove".

18. Respondent is subject to disciplinary action pursuant to Code section 2761, subdivision (a), on the grounds of unprofessional conduct, as defined by Code section 2762, subdivision (a), in that while on duty in the Med-Surgical Unit at the hospital, Respondent obtained the controlled substance Dilaudid by fraud, deceit, misrepresentation, or subterfuge, in violation of Health and Safety Code section 11173, subdivision (a), as follows: In and between July and August 2006, Respondent gained access to the hospital's supply of PCA Dilaudid and withdrew various quantities of the medication from one of the PCA Dilaudid bags by making repeated attempts to access injectable Lorazepam from the Pyxis system under the names of several different patients, including patients who were not assigned to him, made, or caused to be made, numerous canceled override or canceled remove entries in the system (believed to be in

<sup>1</sup> PCA (patient-controlled analgesic) infusion devices allow a patient to self-administer narcotic analgesics within the limits prescribed by the physician. The device delivers solution intravenously, subcutaneously, or epidurally, and allows patient activation by means of a pendent button on a cord connected to the pump or a button directly on the pump.

1 excess of 50), and did not remove the Lorazepam from the Pyxis. Further, Respondent failed to  
2 document in the patients' Medication Administration Records and the Nursing Notes any  
3 justification for attempting to access or remove the Lorazepam from the Pyxis system.  
4 Respondent's numerous canceled override/canceled remove entries and failure to document just  
5 cause to access or remove the Lorazepam resulted in grossly incorrect, grossly inconsistent, or  
6 unintelligible entries in the hospital/patient records.

7 **FIFTH CAUSE FOR DISCIPLINE**

8 **(False Entries in Hospital/Patient Records)**

9 19. Complainant incorporates by reference as though fully set forth herein the allegations  
10 contained in paragraphs 16 and 17 above.

11 20. Respondent is subject to disciplinary action pursuant to Code section 2761,  
12 subdivision (a), on the grounds of unprofessional conduct, as defined by Code section 2762,  
13 subdivision (e), in that in and between July 2006, and August 2006, while on duty in the Med-  
14 Surgical Unit at the hospital, Respondent falsified, or made grossly incorrect, grossly  
15 inconsistent, or unintelligible entries in hospital, patient, or other records pertaining to the  
16 controlled substance Lorazepam, as set forth in paragraph 18 above.

17 **PRAYER**

18 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
19 and that following the hearing, the Board of Registered Nursing issue a decision:

20 1. Revoking or suspending Registered Nurse License Number 571029 to Jerry Belden,  
21 also known as Jerry James Belden;

22 2. Ordering Jerry Belden, also known as Jerry James Belden, to pay the Board of  
23 Registered Nursing the reasonable costs of the investigation and enforcement of this case,  
24 pursuant to Business and Professions Code section 125.3;

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3. Taking such other and further action as deemed necessary and proper.

DATED: 2/1/11

*Louise R. Bailey*  
LOUISE R. BAILEY, M.ED., RN  
Executive Officer  
Board of Registered Nursing  
Department of Consumer Affairs  
State of California  
*Complainant*

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